

**TOWN OF ROCKY HILL  
PLANNING AND ZONING COMMISSION  
MEETING OF OCTOBER 1, 2014**

**CALL TO ORDER**

Chairman Desai called the Wednesday, October 1, 2014, meeting to order at 6:32 p.m. in the Town Council Room, Rocky Hill Town Hall, 761 Old Main Street, Rocky Hill, Connecticut.

Present: Dimple Desai, Chairman  
Victor Zarrilli, Secretary  
Carmen D'Agostino

Alternates: William O'Sullivan

Also: Kimberley A. Ricci, Dir. Planning & Building/Asst. ZEO  
Eileen A. Knapp, Recording Secretary

**1. PUBLIC HEARING**

**A. Proposed Moratorium on all new multifamily development in excess of two family dwellings until the Plan of Conservation and Development Update, currently in process, is complete and/or there is a comprehensive review of the Town of Rocky Hill Zoning Regulations as they apply to multifamily development, the length of which is not to exceed two years from of date of publication, if acted upon in the affirmative.**

Commissioner Zarrilli read the legal notice.

At their August meeting, the Town Council approved a resolution requesting that the Planning and Zoning Commission consider the adoption of a moratorium on all new multi-family development in excess of two family dwellings until the POCD is updated and/or there is a comprehensive review of the Town's Zoning Regulations as they apply to multi-family development. Mrs. Ricci gave Commissioner's copies of the Resolution and minutes from the Town Council August 18th meeting. When the Planning and Zoning Commission set the public hearing in September they raised some questions about the Resolution but Mrs. Ricci said she has not yet received answers to those questions. One question was concerning the first line of the Resolution that states that the Regulations "...have been interpreted to allow *multi-family housing as a mixed use* in certain business zones..." Multi-family housing is a component of mixed uses. There was also a question of what the Resolution meant when it states that multi-family uses may lead to "unintended consequences".

**Public Comment**

**Ms. Krista Mariner of 58 Farms Village Road** addressed the Commission and handed out some correspondence. She said the moratorium on multi-family housing that is currently in place was never updated in the POCD or the Zoning Regulations to allow for new multi-family housing, other than age restricted housing. She calculates that Rocky Hill will consist of about 54% of multi-family housing once Town Center West is built. This percentage is much higher than neighboring towns. The Commission does have a mechanism for denying multi-family housing applications if this moratorium does not pass, because of the current problem of elementary schools being filled to capacity.

Another concern of Ms. Mariner is that in 2006 the standards for multi-family housing were taken out of the Regulations. She also thinks there may be a problem with approving this moratorium because it may violate the Fair Housing Act. She wonders if the moratorium on multi-family housing should also include age-restricted housing. If age restricted housing is not included in the moratorium, the Commission may be in violation of the Fair Housing Act.

**Mr. Barry Goldberg of Regulatory Land Use Consulting** addressed the Commission. He is puzzled about this request because a moratorium is usually for a specific “as-permitted” use. He said he is against this moratorium and feels if the Commission goes forward with it, it would be a validation of the arbitrary and capricious decisions this Commission has made in respect to multi-family housing. As he has stated in the past, Mr. Goldberg said multi-family housing is *not* a permitted use or an “as of right use” in the Regulations. `

Mr. Goldberg passed around a U.S. Supreme Court decision regarding moratoriums. When considering a moratorium the following things need to be considered:

- Does the moratorium advance a legitimate government interest?
- Does the government action represent diligence and good faith?
- Does the moratorium apply equally and fairly?
- Does the moratorium deprive the property owner of all reasonable use for too long a time?

Mr. Goldberg doesn’t understand, if multi-family uses are not permitted under the Regulations, how the Commission can then go forward with a moratorium. He suggested getting the Town Attorney’s opinion before taking action. Mr. Goldberg passed around several handouts including, minutes from a June 2011 Planning and Zoning meeting where the Commission reviewed the issue of multi-family housing and the consensus was that multi-family housing was not a permitted use, a copy of an article about how Zoning was created, and a legal document listing the legal basis to be used for moratoriums. He believes the only way multi-family housing should be allowed in Rocky Hill is through a use variance issues by the Zoning Board of Appeals.

**Ms. Marty Stiglich, 214 Woodfield Crossing** addressed the Commission saying she doesn’t believe a moratorium is a wise decision because all that would do is delay making a decision for another two years. She suggested looking at the issue of mixed-uses and how it is changing across the country. They need to decide now, how to handle mixed-uses in town going forward.

**Ms. Pat Hughes-Walworth, of 94 Highview Drive and Owner/Broker of Hughes Realty** said she is not in favor of the moratorium. There is a great need for elderly housing so people who have lived in the community and raised their families here can stay here as they grow older.

**Mr. Jay Morris, Principle and Broker at OR&L Commercial and the owner of 2340 Silas Deane Highway** said he is also opposed to the moratorium. He feels it could restrict positive economic growth in Town and “paints too many properties with a broad brush”. He also feels 2 years is too long of a period for people to be restricted from developing their properties.

**Mr. Christopher Duff of 61B Brookwood Village** said he was happy to see many of the Commissioners at the recent POCD meeting. He is curious as to what is driving this push for a moratorium. The representative from Planimetrics has stated that these multi-family developments don’t have the effect on schools that many people are afraid of. The moratorium won’t solve this problem as much as postpone making a decision about it. If the Commission does decide to go forward with the moratorium he would like them to explain the reasoning behind their decision.

Ms. Krista Mariner said she is also curious as to what is driving this push for the moratorium by the Town Council. When the Council voted for this resolution, not one of the Councilors who voted in favor of the moratorium explained why they were in favor. Mrs. Ricci said the Commission also had questions at the last meeting when this moratorium was brought up as to the wording and reasons for the request. The Town Council has not answered any of those questions as of yet.

E-mails and letters were received in favor of the moratorium from the following individuals:

**Sue Creedon of 26 Danforth Lane** - she is not in favor of additional multi-family housing and is afraid of the effect it would have on the school system.

**Curtis B. Clemens, of Century 21 Clemens Real Estate** – He is in favor of the moratorium and feels Rocky Hill has more than its share of apartments.

**Nancy Stockman of 95 Rosewood Drive**

**Martha Durkin of 33 Winding Brook Drive** – She feels there is an abundance of apartments in Rocky Hill and feels the additional housing would cause a burden on the town services.

#### **Commissioner Comments/Questions**

Commissioner O’Sullivan said the Town Council has put this Commission in an unfortunate position because they did not explain the reasoning for the request for a moratorium. If they knew the reasons, they might be able to find less drastic measures to address them. He is also concerned about the legality of acting on this moratorium. He feels they should hear from the Town Attorney before taking action.

Commissioner D'Agostino said he would also like to hear from the Town Attorney and they may need to change the Regulations to address the issue instead of instituting a moratorium.

Commissioner Zarrilli was in agreement with the previous Commissioner's request for guidance from the Town Attorney and felt that this is an issue that could be addressed in the Plan of Conservation and Development. He also wondered who came up with the 2-year term for the moratorium. Mrs. Ricci said the actual resolution wording came from the Town Attorney, but she does not know the impetus for the request. The Commission could decide to have a shorter period for the moratorium.

Chairman Desai also would like advice from Counsel and more of an explanation of why the Town Council feels the moratorium is necessary. He feels the matter of multi-family housing can be addressed through the process of updating the POCD. Mrs. Ricci said if there are questions for the Town Attorney; please make them as specific as possible. Commissioners wanted to find out the legality of imposing this moratorium including the issue of the Fair Housing Act and to also find out the reasoning behind the request from the Town Council. Commissioner O'Sullivan said he would like to see legal evidence in support of this moratorium.

**A MOTION was made by Commissioner Zarrilli to recess public hearing for a Proposed Moratorium on all new multifamily development in excess of two family dwellings until the Plan of Conservation and Development Update, currently in process, is complete and/or there is a comprehensive review of the Town of Rocky Hill Zoning Regulations as they apply to multifamily development, the length of which is not to exceed two years from of date of publication, if acted upon in the affirmative. Seconded by Commissioner O'Sullivan. All were in favor, MOTION CARRIED UNANIMOUSLY.**

## **2. SPECIAL MEETING CALL TO ORDER**

**A. Referral under Section 8-24 of the Connecticut General Statutes, Town of Rocky Hill, to purchase the development rights to Hayes Farm for the use of active farmland in perpetuity, ( R004 Hayes Road, 8.000 acres, ID# 08-185; #269 Hayes Road, 7.801 acres, ID# 08-084; and L005 Hayes Road, 27.914 acres ID# 08-535 - not included the residential building lot of 0.555 acres along Hayes Road ), Land more specifically depicted on maps entitled, Property Survey, Prepared for The Town of Rocky Hill, "Hayes Properties," Hayes Road, Rocky Hill, Connecticut, Sheets 1 of 3, 2 of 3 and 3 of 3, Prepared by Milone and MacBroom, Project No. 2932-04, Dated November 4, 2013;**

Mrs. Ricci said under CGS Section 8-24 any municipal improvements, including acquiring development rights requires a statutory referral. The Bond Council is now looking for this statutory referral to complete the package to get the necessary funds to acquire the development rights.

**A MOTION was made by Commissioner Zarrilli to accept the Referral under Section 8-24 of the Connecticut General Statutes, Town of Rocky Hill, to purchase the development rights to Hayes Farm for the use of active farmland in perpetuity, ( R004 Hayes Road, 8.000 acres, ID# 08-185; #269 Hayes Road, 7.801 acres, ID# 08-084; and L005 Hayes Road, 27.914 acres ID# 08-535 - not included the residential building lot of 0.555 acres along Hayes Road ), Land more specifically depicted on maps entitled, Property Survey, Prepared for The Town of Rocky Hill, "Hayes Properties," Hayes Road, Rocky Hill, Connecticut, Sheets 1 of 3, 2 of 3 and 3 of 3, Prepared by Milone and MacBroom, Project No. 2932-04, Dated November 4, 2013. Seconded by Commissioner D'Agostino. All were in favor, MOTION CARRIED UNANIMOUSLY.**

**B. Proposed Moratorium on all new multifamily development in excess of two family dwellings until the Plan of Conservation and Development Update, currently in process, is complete and/or there is a comprehensive review of the Town of Rocky Hill Zoning Regulations as they apply to multifamily development, the length of which is not to exceed two years from of date of publication, if acted upon in the affirmative.**

### **3. ADJOURN**

**A MOTION was made by Commissioner Zarrilli to adjourn. Seconded by Commissioner O'Sullivan. All were in favor, MOTION CARRIED UNANIMOUSLY.**

Meeting adjourned at 7:24 p.m.

Respectfully submitted,

Eileen A. Knapp  
Recording Secretary